

Application No. 10/523,504
Amendment Dated: November 21, 2006
Reply to Office Action of August 24, 2006

REMARKS/ARGUMENTS

By this Amendment, Claims 1 and 10 have been amended. Claims 1-17 are pending.

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

The drawings in this application were objected to because they allegedly fail to show “the U-shaped frame”. The U-shaped frame is specifically disclosed in the specification on page 3 line 15 and Fig. 1 shows a side view of that frame 16. While it may be true that a top plan view or bottom plan view showing the U-shaped frame 16 has not been included in this application, such a view, or any other view of the U-shaped member, is respectfully submitted as not being necessary. In this regard, one skilled in the art will certainly recognize from Fig. 1 and the views of Figs. 2 - 5 (showing different perforated sheets), that the U-shaped frame 16 is simply a U-shaped member that is arranged to engage the U-shaped peripheral portions of the sheets shown in Figs 2-5. Thus, it is respectfully submitted that additional drawings are not necessary, since the drawing does show the subject matter being claimed as required by 37CFR 1.83(a). Moreover, it is instructive to note that the last amendment to the claims did not add the feature of the U-shaped member. That feature had already been claimed, see Amendment of February 13, 2006, yet the Office Action of March 17, 2006 which was issued in response to that amendment did not require any change/addition to the drawings to show the U-shaped frame further.

Claims 1 - 17 were rejected as being obvious over U.S. Patent No. 5,702,406 (Vilsmeier) in view of U.S. Patent No. 5,775,337 (Hauger et al.). The rejection of these claims will now be addressed.

Both of the independent claims of this application have been amended to make it clear that the patient restraint claimed comprises a sheet and a generally U-shaped frame, with the sheet now being specified as being: (1) an integral, unitary sheet having an inner surface and an outer surface, (2) with only a single layer of material between those surfaces, (3) with the material being formed of a thermoplastic material that can be softened upon heating so as to be formable into a shape corresponding to a patient's body part to be restrained and setting upon cooling to retain the shape, (4) with the sheet having a perimeter edge lying in a common plane, and (5) with the inner surface of the sheet arranged to directly engage the patient's body part to restrain movement of the patient's body part. These combined features are not shown nor suggested by Vilsmeier.

The Office Action takes the position that the sheet of Vilsmeier et al. is itself free of additional strips and is capable of being used alone to restrain the user. While Vilsmeier's sheet 10 may itself be free of additional strips, the fixation strips 13 and 14 work together with the sheet 10 to immobilize the patient's head. That is not the case with the subject invention. In particular, the inner surface of single sheet of the subject invention itself directly engages the part of the patient's body to be restrained to restrain that body part without the use of any other restraining members.

It should also be noted that an underpinning of the rejection of the claims over Vilsmeier et al. is the examiner's contention that Vilsmeier et al. does disclose unperforated bands. If the

examiner is correct that Vilsmeier et al. discloses such unperforated portions (such unperforated portions are not merely a drawing convention to eliminate the need to show perforations over the entire surface of the sheet), the unperforated portions would inherently provide additional strength to the sheet. If so, why does Vilsmeier et al. incorporate other structures which increase the cost and complexity of the device, namely, the strips 13 and 14, to fix the patient's head? The conclusion to be drawn is inescapable, namely: Vilsmeier et al. needs the strips 13 and 14 since the sheet 10 is perforated across its entire surface and isn't strong enough to immobilize the patient's head by itself.

The secondary reference, that is, the patent to Hauger, fails to make up for this deficiency in the Vilsmeier et al. reference.

A further point of distinction between the subject invention as now set forth in Claim 1 and the disclosure of the Vilsmeier et al. patent is the fact that Vilsmeier et al. doesn't make use of a generally planar U-shaped frame arranged to be attached to and extending around a portion of the perimeter edge of the sheet and being coplanar with the planar perimeter edge of the sheet. This feature of the subject invention provides a viable means for providing anchoring points about the periphery of the sheet. In the case of a head mask it helps minimize up/down movement (e.g., movement of the head like occurs when one nods "yes"). To make up for the deficiencies of Vilsmeier et al. with respect to the use of the U-shaped frame being in the same plane as the plane of the periphery of the sheet, the examiner points to the Hauger reference.

However, the Hauger reference fails to make up for the deficiencies of the Vilsmeier patent inasmuch as while Hauger discloses a U-shaped frame which is in the same plane as the periphery

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of the sheet, he fails to show the sheet having non-perforated solid bands extending between the groups of perforations as is called for in Claim 1.

Accordingly, the combination of Vilsmeier et al. and Hauger fails to disclose the subject matter now set forth in Claim 1, so it is respectfully submitted that Claim 1 is patentable.

Claims 2 - 9 depend either directly or indirectly upon Claim 1 and are hence respectfully submitted to be patentable for reasons similar thereto.

Claim 10 is an independent claim, which has been amended in a similar manner to Claim 1. Hence for the same basic reasons as given with respect to Claim 1, it is respectfully submitted that Claim 10 is patentable over Vilsmeier.

Claims 11 - 17 depend either directly or indirectly upon Claim 10 and are hence respectfully submitted to be patentable for reasons similar thereto.

For at least the reasons set forth above, it is respectfully submitted that the above-identified application is in condition for allowance. Favorable reconsideration and prompt allowance of the claims are respectfully requested.

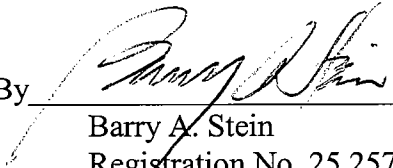
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Should the Examiner believe that anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

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